

**Effective 5/10/2016**

## **Part 5**

### **Sage Grouse Management and Protection**

#### **79-2-501 Title.**

This part is known as "Sage Grouse Management and Protection."

Enacted by Chapter 358, 2016 General Session

#### **79-2-502 Definitions.**

As used in this part:

- (1) "Compensatory mitigation" means avoiding, minimizing, rectifying, reducing, or eliminating impacts on sage grouse habitat by providing substitute sage grouse habitat through conservation projects or conservation banks.
- (2) "Conservation plan" means the current version of the "Conservation Plan for Greater Sage-grouse in Utah" developed by the state and approved by the governor.
- (3) "Permanently disturb" means an action that disrupts the common activities of sage grouse for a period of more than five years and includes all areas where the effects of the action could be expected to disrupt the common activities of sage grouse for a period of more than five years.
- (4) "Person" means:
  - (a) an individual;
  - (b) a corporation;
  - (c) a limited liability company;
  - (d) a partnership;
  - (e) an association;
  - (f) a trust; or
  - (g) a voluntary organization.
- (5) "Program" means the Sage Grouse Compensatory Mitigation Program created under Section 79-2-504.
- (6) "Sage grouse" means the greater sage-grouse, or the species *centrocercus urophasianus*.

Enacted by Chapter 358, 2016 General Session

#### **79-2-503 Scope.**

Nothing in this part requires a person, whether public or private, to participate in the program.

Enacted by Chapter 358, 2016 General Session

#### **79-2-504 Program creation -- Administration.**

- (1) There is created the Sage Grouse Compensatory Mitigation Program to mitigate the impacts of development or disturbance of sage grouse habitat by:
  - (a) creating and preserving habitat for the long-term conservation of sage grouse in the state in a manner that minimizes impacts to economic growth;
  - (b) establishing a mechanism by which conservation banks may operate in Utah to achieve compensatory mitigation; and
  - (c) establishing a mechanism by which a person or a governmental entity may voluntarily complete compensatory mitigation.

(2)

- (a) The department shall administer the program and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program in accordance with the provisions of this part.
- (b) A rule made under Subsection (2)(a) shall be consistent with:
  - (i) the requirements of Section 79-2-505;
  - (ii) the goals and objectives described in the conservation plan, including avoiding and minimizing habitat disturbances and mitigation impacts to sage grouse habitat; and
  - (iii) to the greatest extent possible, any local programs for the conservation of sage grouse habitat.
- (c) Before making any rules under this chapter, the department shall:
  - (i) create a plan by which the requirements of this chapter will be met; and
  - (ii) before November 1, 2016, present the plan to the Natural Resources, Agriculture, and Environment Interim Committee.

Enacted by Chapter 358, 2016 General Session

**79-2-505 Department duties.**

- (1) In administering the program created in Section 79-2-504, the department shall:
  - (a) create a system through which:
    - (i) a person may:
      - (A) generate a mitigation credit from the department if the person creates a conservation bank by enhancing and dedicating land for sage grouse habitat and conservation; and
      - (B) sell a mitigation credit generated under Subsection (1)(a)(i)(A) to another person that permanently disturbs sage grouse habitat;
    - (ii) the state may generate a mitigation credit by enhancing and dedicating land for sage grouse habitat and conservation;
    - (iii) a person may purchase a mitigation credit generated by the state under Subsection (1)(a)(ii) for no less than the state's total cost of enhancing and dedicating the land; and
    - (iv) a person may use a mitigation credit to permanently disturb sage grouse habitat to the extent that the person possesses sufficient mitigation credits;
  - (b) create a system for tracking mitigation credits that are created, purchased, sold, or used under Subsection (1);
  - (c) establish procedures and criteria to identify and approve land that a person or a governmental entity may use for compensatory mitigation; and
  - (d) consistent with this chapter, integrate and coordinate the program with other state, local, private, and non-profit plans to protect and manage sage grouse habitat.
- (2) The state's total cost described under Subsection (1)(a)(iii) may include costs associated with the department's administration of the program.

Enacted by Chapter 358, 2016 General Session